

## Premises Liability Codes and Standards - Source Materials

### **Building and Safety Codes:**<sup>1</sup>

#### **Current Codes:**<sup>2</sup>

**International Code Council** - Uniform Codes - Adopted Locally or Through State Legislature

Website: [www.iccsafe.org](http://www.iccsafe.org)

International Building Code

International Fire Code

International Property Maintenance Code

International Existing Building Code

International Plumbing Code

International Mechanical Code

International Residential Code

(Note - There are other safety codes which have been drafted by the ICC and new ones are being developed all the time. Check the website for a current list.)

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<sup>1</sup> Codes duly adopted by the Federal, State, or Local Government are binding law. While experts may be permitted to interpret standards, statutes, regulations, or ordinances are not to be interpreted by experts. No expert should be allowed to opine as to whether a particular code, regulation, ordinance, or statute applies in any case. This is strictly a legal function to be done by the Court.

Codes are also remedial and should be given a liberal interpretation to further the goals of safety. Where two interpretations can be given to a particular code section, the interpretation which provides the most protection and safety to the public should be the one used. (Note that under certain circumstances the codes themselves do exclude applicability - i.e. existing nonconforming structures in compliance with the code under which originally constructed).

Codes are minimum legal standards and not necessarily a statement of what is or is not safe. Noncompliance with codes would be grounds for a negligence *per se* claim. However, where a code is not applicable or there are additional circumstances not considered by the specific code section, other safety standards should be considered and could still be grounds for a claim under common law negligence.

<sup>2</sup> The intent of this list is to give a general listing of codes which might be encountered in a typical premises liability case. Each jurisdiction will have their own choice and combination of various codes. Some jurisdiction have unique codes which have been drafted solely for that jurisdiction and may not be found anywhere else. Local amendments to uniform codes are also very common. One of the first steps in evaluating a premises liability case should be the local codes department. Pay particular attention to the scope and applicability sections of any local codes.

**National Fire Protection Association<sup>3</sup>** - Uniform Codes - Adopted Locally or Through State Legislatures

Website: [www.nfpa.org](http://www.nfpa.org)

NFPA 1 - Fire Code

NFPA 101 - Life Safety Code

(Note - The NFPA has a large number of other codes and standards it has developed. Often these other codes are adopted within other codes. Most of these codes concern fire safety, alarm standards, and sprinkler systems. Check the website for a more detailed listing.)

**Americans with Disabilities Act of 1990 (ADA)** - Federal Law applies to all new public accommodations and commercial facilities or any alterations to existing facilities.

Website: [www.access-board.gov](http://www.access-board.gov)

28 CFR Part 36 (Dept. of Justice) and 48 CFR Parts 37 and 38 (Dept. of Transportation)  
Americans with Disability Accessibility Guidelines (Put out by Justice Department) -  
Standards that covered properties must comply with (See also ANSI 117.1)

**Occupational Safety and Health Act (OSHA)** - Federal Law applicable to workplace environments. Regulations adopted under the Federal OSHA law are typically adopted by reference by State Occupational Safety and Health Administrations.

Website: [www.osha.gov](http://www.osha.gov)

Regulations promulgated by OSHA (Occupational Safety and Health Administration):

29 CFR 1910 - General Industry Standards

29 CFR 1926 - Construction Specific Standards

29 CFR 1915, 1917, and 1918 - Maritime Specific Standards

#### **Municipal Code Websites:**

Municipal Code Corporation - [www.municode.com](http://www.municode.com)

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<sup>3</sup> The NFPA focuses principally on fire safety. It has numerous codes and standards for sprinkler systems and other fire control and abatement devices. It also has an electrical code. The Life Safety Code is similar to the ICC's Fire Code and Building Code. There are large similarities between the two code bodies but some differences as well. Local code officials will sometimes adopt both ICC and NFPA codes or will only adopt one or the other. The appendix to the Life Safety Code, while not legally controlling, is excellent commentary on why a particular safety standard is necessary. It can be used to help impeach an adverse expert or help an expert explain the importance of a specific safety standard.

Older Codes:<sup>4</sup>

Southern Building Code (aka Standard Building Code) - Southern Building Code Congress (SBCC) - Now a part of the ICC

Uniform Building Code - International Conference of Building Officials (ICBO) - Now a part of the ICC

CABO Building Codes - Council of American Building Officials (CABO) - Now a part of the ICC

National Building Code - Building Officials and Code Administrators (BOCA) - Now a part of the ICC

**Safety and Standards Organizations:**

**ASTM International** - American Society for Testing and Materials

Website: [www.astm.org](http://www.astm.org)

**ANSI** - American National Standards Institute

Website: [www.ansi.org](http://www.ansi.org)

**ASSE** - American Society of Safety Engineers

Website: [www.asse.org](http://www.asse.org)

**IES** - Illuminating Engineering Society

Website: [www.ies.org](http://www.ies.org)

**NFSI** - National Floor Safety Institute

Website: [www.nfsi.org](http://www.nfsi.org)

**SAE** - Society of Automotive Engineers

Website: [www.sae.org](http://www.sae.org)

**UL** - Underwriters Laboratories

Website: [www.ul.com](http://www.ul.com)

**AASHTO** - American Association of State Highway and Transportation Officials

Website: [www.transportation.org](http://www.transportation.org)

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<sup>4</sup> These codes were widely used prior to the formation of the International Code Council. In many cases when dealing with older properties, you may have to go back and review the code under which the property was built to determine whether it complied with the code as it existed at that time. Any alterations to that portion of an existing property or change in the use of the property, however, would likely fall under the code in effect when the change occurred.

### **General Safety Standards:**

- ASTM F1637 - Standard Practices for Safe Walking Surfaces
- ASTM F1646 - Standard Terminology Relating to Safety and Traction for Footwear
- ASTM F1694 - Standard Guide for Composing Walkway Surface Investigation, Evaluation and Incident Report Forms for Slips, Stumbles, Trips, and Falls
- ANSI A117.1 - Standards for Accessible and Usable Buildings and Facilities
- ANSI A1264.1 - Safety Requirements for Workplace Walking/Working Surfaces and Their Access; Workplace Floor, Wall and Roof Openings; Stairs and Guardrails Systems

### **Slip Resistance Standards:**

- ASTM F802 - Standard Guide for Selection of Certain Walkway Surfaces When Considering Footwear Traction
- ANSI A1264.2 - Standard for the Provision of Slip Resistance on Walking/Working Surfaces

### **Miscellaneous Safety Standards:**

- ASTM F-462 - Standard Consumer Safety Specification for Slip-Resistant Bathing Facilities

### **Traffic Safety Standards:**

MUTCD - Manual on Uniform Traffic Control Devices - 2009 Edition  
<http://mutcd.fhwa.dot.gov/pdfs/2009/mutcd2009edition.pdf>

## **Government Sponsored Reports:**

*Guidelines for Stair Safety* - U.S. Dept. of Commerce - National Bureau of Standards - May 1979  
[www.nist.gov/manuscript-publication-search.cfm?pub\\_id=908306](http://www.nist.gov/manuscript-publication-search.cfm?pub_id=908306)

*Pedestrian Falling Accidents in Transit Terminals* - U.S. DOT - Feb. 1985 -  
[www.transit-safety.volpe.dot.gov/publications/safety/pedestrian/html/dot-tsc-umta-84-36.htm](http://www.transit-safety.volpe.dot.gov/publications/safety/pedestrian/html/dot-tsc-umta-84-36.htm)

*Designing Sidewalks and Trails for Access* - U.S. DOT - July 1999 - Two Part Study  
[www.fhwa.dot.gov/environment/bikeped/publications.htm#Design](http://www.fhwa.dot.gov/environment/bikeped/publications.htm#Design)

Florida Design Standards and Handbooks for Design and Maintenance of Pedestrian Facilities  
[www.dot.state.fl.us/safety/ped\\_bike/ped\\_bike\\_standards.shtm](http://www.dot.state.fl.us/safety/ped_bike/ped_bike_standards.shtm)

## **Books/Safety Manuals:**

Di Pilla, Steven. *Slip, Trip, and Fall Prevention: A Practical Handbook*. 2010.

Templer, John. *The Staircase: Studies of Hazards, Falls, and Safer Design*. 1992.

National Safety Council. *Accident Prevention Manual for Business & Industry*. (12<sup>th</sup> ed. - 2000)  
( 13<sup>th</sup> ed. - 2009)

## **Industry and Trade Groups:**

CTIOA - Ceramic Tile Institute of America<sup>5</sup>  
Website: <http://www.ctioa.org/index.cfm>

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<sup>5</sup> The CTIOA has a technical committee which examines numerous safety issues related to walking surface materials (principally dealing with tile surfaces). They have issued reports with their findings and recommendations for testing, installation, and maintenance of flooring materials.

## **Insurance Company Guidelines and Reports:**

### **Liberty Mutual Research Institute for Safety<sup>6</sup>**

Website: [www.libertymutualgroup.com/omapps/ContentServer?pagename=LMGroup/Views/LMG&ft=2&fid=1138356633468&ln=en](http://www.libertymutualgroup.com/omapps/ContentServer?pagename=LMGroup/Views/LMG&ft=2&fid=1138356633468&ln=en)

### **Zurich Insurance**

Website: [www.zurichna.com/zna/products/product/defyinggravity.htm](http://www.zurichna.com/zna/products/product/defyinggravity.htm)

### **Chubb Insurance** (Preventing Slip and Falls Guide - for Community Banks)

Website: [www.chubb.com/businesses/csi/chubb4992.pdf](http://www.chubb.com/businesses/csi/chubb4992.pdf)

### **CNA Risk Control Publications**

Website: [www.cna.com/portal/site/cna/menuitem.12a886759355bf22464446443a4141a0/?vgnextoid=c78acad57461b210VgnVCM200000751e0c0aRCRD](http://www.cna.com/portal/site/cna/menuitem.12a886759355bf22464446443a4141a0/?vgnextoid=c78acad57461b210VgnVCM200000751e0c0aRCRD)

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<sup>6</sup> Liberty Mutual sponsors a very comprehensive safety research center. There are numerous reports and newsletters available on the website. There are also research papers listed which might be available upon request. The principal focus is on occupational safety, but there are still some good resources and guidelines for premises safety in liability cases.